

## **Assembly Bill No. 827**

### **CHAPTER 815**

An act to amend Sections 94831 and 94834 of the Education Code, relating to private postsecondary education.

[Approved by Governor September 30, 2006. Filed with  
Secretary of State September 30, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 827, Goldberg. Private postsecondary education: consumer credit regulations.

Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act renders it inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

An existing provision of the act prohibits a private postsecondary or vocational institution that is subject to the act from taking any of various specified actions or from failing to comply with federal requirements relating to the disclosure of information to students regarding vocational and career training programs. A violation of this provision is punishable as a crime.

This bill would also prohibit a private postsecondary or vocational institution that is subject to the act from failing to comply with a specified federal regulation relating to the notices required to be contained in a consumer credit contract, and would require a specified statement to be included in prescribed consumer credit contracts, but would specify that violation of the provision added by this bill is not punishable as a crime.

*The people of the State of California do enact as follows:*

SECTION 1. Section 94831 of the Education Code is amended to read:  
94831. No institution, or representative of that institution, shall do any of the following:

(a) Operate in this state a postsecondary educational institution not exempted from this chapter, unless the institution is currently approved to operate pursuant to this chapter. The bureau may institute an action, pursuant to Section 94955, to prevent any individual or entity from

operating an institution in this state that has not been approved to operate pursuant to this chapter and to obtain any relief authorized by that section.

(b) Offer in this state, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from this chapter, whether that institution is within or outside this state, unless that agent is a natural person and has a currently valid agent's permit issued pursuant to this chapter, or accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter. The bureau, however, may adopt regulations to permit the rendering of legitimate public information services without a permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in this article and Article 7 (commencing with Section 94850), if it is applicable.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

(e) Promise or guarantee employment.

(f) Advertise concerning job availability, degree of skill, and length of time required to learn a trade or skill, unless the information is accurate and in no way misleading.

(g) Advertise, or indicate in any promotional material, that correspondence instruction or a correspondence course of study is offered without including in all advertising or promotional material the fact that the instruction or program of study is offered by correspondence or home study.

(h) Advertise, or indicate in any promotional material, that resident instruction or a program of study is offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(i) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication, or use "blind" advertising that fails to identify the school or institution.

(j) Advertise, or indicate in any promotional material, that the institution is accredited, unless the institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

(k) Fail to comply with federal requirements relating to the disclosure of information to students regarding vocational and career training programs, as described in Section 94816.

(l) (1) Fail to comply with Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations as it exists on January 1, 2007, and as it is amended from time to time thereafter.

(2) For each student who enters into a consumer credit contract that is subject to Part 433 (commencing with Section 433.1) of Title 16 of the Code of Federal Regulations as it exists on January 1, 2007, and as it is amended from time to time thereafter, the institution shall include the following statement in any written contract or agreement for educational services or, in the alternative, shall provide the student with a separate written notice containing the following statement:

**“YOU MAY ASSERT AGAINST THE HOLDER OF THE PROMISSORY NOTE YOU SIGNED IN ORDER TO FINANCE THE COST OF INSTRUCTION ALL OF THE CLAIMS AND DEFENSES THAT YOU COULD ASSERT AGAINST THIS SCHOOL, UP TO THE AMOUNT YOU HAVE ALREADY PAID UNDER THE PROMISSORY NOTE.”**

(3) The statement set forth in paragraph (2) shall be printed in boldface print of at least 12-point size.

SEC. 2. Section 94834 of the Education Code is amended to read:

94834. (a) Any person or business entity, regardless of the form of organization, that willfully violates Section 94800, Sections 94810 to 94826, inclusive, Section 94828, Section 94829, subdivisions (a) to (k), inclusive, of Section 94831, or Section 94832 is guilty of a crime and shall be subject to separate punishment for each violation either by imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in the state prison, by a fine not to exceed fifty thousand dollars (\$50,000), or by both that imprisonment and fine.

(b) Notwithstanding any other provision of law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

(d) In addition to any other fines or penalties imposed pursuant to this section, any person or business entity found guilty of a crime as described in subdivision (a) shall be ordered to pay the Attorney General, any district attorney, or any city attorney all of their costs and expenses in connection with any investigation incident to that prosecution. An institution shall not be required to pay the same costs and expenses to more than one investigating agency.